

REMARKS

Claims 1 and 3-21 are pending in the present invention. Of these, claims 1, 6, 10, 11, 17, and 18 are independent.

The Section 102 Rejections

Claims 1, 3-7, 9-15 and 17-21 were rejected under 35 U.S.C. §102(a) as allegedly being anticipated by Wei et al.(hereinafter "Wei"). Applicants disagree and traverse these rejections for at least the following reasons.

Each of the claims of the present invention includes the feature of sending a connection setup message to a next node before a previously initiated cross-connect is completed.

In contrast, the cross-connections in Wei are completed before a cross-connection "Setup" message is sent. For example, Figs. 3(b) and 4 depict a "Setup" message being sent only after a cross-connection time, t_c , is completed. In addition, in Fig. 2 and 3(a) a "Confirm" message is sent (albeit in the reverse direction) only after the time-period ' t_c ' has elapsed.

Because Wei does not disclose each feature of the claims it cannot anticipate the claims. Accordingly, Applicants respectfully request withdrawal of the pending rejections and allowance of claims 1, 3-7, 9-15 and 17-21.

The Section 103 Rejections

Claims 8 and 16 were rejected under 35 U.S.C. §103(a) as being unpatentable over Wei in view of an article by Qiao et al. ("Qiao"). Claims 8 and 16 require in-band signaling messages to be used in order to initiate cross-connections.

As the Office Action admits, Wei does not disclose or suggest such in-band signaling. To overcome this deficiency, the Examiner relies on Qiao. Applicants respectfully disagree and traverse this rejection for at least the following reasons.

After reading Qiao, especially page 26, section 2 (referred to by the Examiner), Applicants do not find any mention of in-band signaling as stated by the Examiner. Because of this, Applicants respectfully submit that Qiao does not make up for the deficiency of Wei.

The excerpt from Qiao relied upon by the Examiner does not use the terms in band or out-of-band. Though this excerpt states that a “data burst follows [a] control packet” this appears to be a time-reference; not a reference to in-band signaling.

The Examiner also appears to analogize in-band signaling with the use of a “same wavelength.” Notwithstanding any objections that Applicants may have to this analogy, Applicants note that Qiao does not disclose the use of the same wavelength (at least not in the excerpts referred to by the Examiner).

Accordingly, Applicants respectfully submit that the subject matter of claims 8 and 16 is not rendered obvious by a combination of Wei and Qiao.

Applicants also respectfully submit that, the Examiner’s comments notwithstanding, the combination of Wei and Qiao is improper because such a combination would either render one or both of the references unsatisfactory for their intended purposes or require that the principle of operation of one or both of the references be changed. For example, Wei discloses a WDM system

that uses out-of-band signaling to enable cross-connections. On the other hand, Qiao discloses a non-WDM system. Combining the disclosure in Qiao with Wei would require either: (i) that Wei's principle of operation be changed to a non-WDM system, or (ii) that Qiao's be changed to a WDM system; neither is permissible (see MPEP 2143.01).

Accordingly, for at least these reasons, Applicants respectfully request withdrawal of the pending rejections and allowance of claims 8 and 16.

Entry of this Request for Reconsideration is requested because the Request: (a) places the application in condition for allowance for the reasons discussed herein; (b) does not raise any new issues regarding further search and/or considerations; (c) does not present any additional claims without canceling the corresponding number of finally rejected claims; and (d) places the application in better form for appeal, if an appeal is necessary.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact John E. Curtin at the telephone number of the undersigned below.

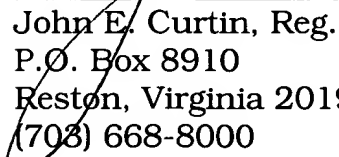
In the event this Response does not place the present application in condition for allowance, applicant requests the Examiner to contact the undersigned at (703) 668-8000 to schedule a personal interview.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

HARNESS, DICKY, & PIERCE, P.L.C.

By



John E. Curtin, Reg. No. 37,602
P.O. Box 8910
Reston, Virginia 20195
(703) 668-8000

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